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ARISTA RECORDS LLC; UMG
RECORDINGS, INC.; and SONY BMG
MUSIC ENTERTAINMENT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION

ARISTA RECORDS LLC, a Delaware limited
liability company; UMG RECORDINGS, INC.,
a Delaware corporation; and SONY BMG
MUSIC ENTERTAINMENT, a Delaware
general partnership,

Plaintiffs,

v.

JOHN DOE,

Defendant.

EV 08 1049
CASE NO. **08 1049**

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Case No. _____

#35721 v1

ORIGINAL
FILED
FEB 21 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

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JURISDICTION AND VENUE

1
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the
7 true identity of Defendant is unknown to Plaintiffs at this time, on information and belief, Defendant
8 may be found in this District and/or a substantial part of the acts of infringement complained of
9 herein occurred in this District. On information and belief, personal jurisdiction in this District is
10 proper because Defendant, without consent or permission of the copyright owner, disseminated over
11 the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief,
12 such illegal dissemination occurred in every jurisdiction in the United States, including this one. In
13 addition, Defendant contracted with an Internet Service Provider ("ISP") found in this District to
14 provide Defendant with the access to the Internet which facilitated Defendant's infringing activities.

PARTIES

15
16 4. Plaintiff Arista Records LLC is a limited liability company duly organized and
17 existing under the laws of the State of Delaware, with its principal place of business in the State of
18 New York.

19 5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the
20 laws of the State of Delaware, with its principal place of business in the State of California.

21 6. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general
22 partnership, with its principal place of business in the State of New York.

23 7. The true name and capacity of Defendant are unknown to Plaintiffs at this time.
24 Defendant is known to Plaintiffs only by the Internet Protocol ("IP") address assigned to Defendant
25 by his or her ISP on the date and time of Defendant's infringing activity. See Exhibit A. Plaintiffs
26 believe that information obtained in discovery will lead to the identification of Defendant's true
27 name.
28

COUNT I**INFRINGEMENT OF COPYRIGHTS**

8. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

9. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

10. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

11. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies the IP address with the date and time of capture and a list of copyrighted recordings that Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through his or her continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously downloaded and/or distributed to the public additional sound recordings owned by or exclusively licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are ongoing. Exhibit A includes the currently-known total number of audio files being distributed by Defendant.)

12. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on each respective album cover of each of the sound recordings identified in Exhibit A. These notices of copyright appeared on published copies of each of the sound recordings identified in Exhibit A. These published copies were widely available, and each of the published copies of the sound recordings identified in Exhibit A was accessible by Defendant.

13. Plaintiffs are informed and believe that the foregoing acts of infringement have been willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

14. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

15. The conduct of Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound recordings made in violation of Plaintiffs' exclusive rights.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For an injunction providing:

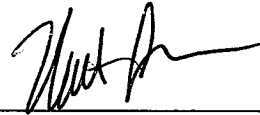
"Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (*i.e.*, download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload) any of Plaintiffs' Recordings, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.
3. For Plaintiffs' costs in this action.
4. For Plaintiffs' reasonable attorneys' fees incurred herein.
5. For such other and further relief as the Court may deem just and proper.

Dated: February 21, 2008

HOLME ROBERTS & OWEN LLP

By



MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

ARISTA RECORDS LLC; UMG RECORDINGS,
INC.; and SONY BMG MUSIC
ENTERTAINMENT

EXHIBIT A

EXHIBIT A**JOHN DOE****IP Address:** 169.233.42.21 2007-10-11 23:17:31 EDT**CASE ID#** 144615981**P2P Network:** GnutellaUS**Total Audio Files:** 424

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Shyne	Shyne	Godfather Buried Alive	363-006
Arista Records LLC	Monica	Angel of Mine	The Boy is Mine	263-982
SONY BMG MUSIC ENTERTAINMENT	Jennifer Lopez	Waiting for Tonight	J. To Tha L-O!: The Remixes	309-337
UMG Recordings, Inc.	Keke Wyatt	Nothing In This World	Soul Sista	303-159
UMG Recordings, Inc.	Nelly Furtado	Promiscuous	Promiscuous (single)	391-618
UMG Recordings, Inc.	The All-American Rejects	It Ends Tonight	Move Along	374-412
UMG Recordings, Inc.	Musiq	Musiq Soulchild	Aijuswanaseing	291-528
Arista Records LLC	Whitney Houston	When You Believe	My Love is Your Love	298-453